

**MINUTES OF THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

May 9, 2000

DIVISION ONE

B130348 McCabe (Not for Publication)
v.
Paul & Stuart et al.

The orders of dismissal are affirmed.

Masterson, J.

We concur: Spencer, P.J.
Vogel (Miriam A.), J.

B128294 In re the Marriage of (Not for Publication)
John and Vanita Spaulding
Spaulding
v.
Spaulding

The November 25, 1998 order is affirmed.

Masterson, J.

We concur: Spencer, P.J.
Ortega, J.

May 9, 2000-Continued

DIVISION ONE (Continued)

B130037 Sarno et al. (Not for Publication)
v.
State Of California et al.

The order of dismissal is affirmed.

Masterson, J.

We concur: Spencer, P.J.
Ortega, J.

B134684 Los Angeles County, D.C.F.S. (Not for Publication)
v.
Yvonne P.

It appearing that the opinion in the above-captioned matter, filed April 28, 2000, contains a clerical error, that error is corrected as follows:
On page 1, line 6, following "(Super. Ct. No.," delete "CK033425" and substitute therefor "J974955."

Spencer, P.J.

We concur: Ortega, J.
Vogel (Miriam A.), J.

DIVISION TWO

B128762 Nightengale (Not for Publication)
v.
The Times Mirror Company

The judgment is affirmed.

Nott, J.

We concur: Boren, P.J.
Mallano, J. (Assigned)

DIVISION TWO (Continued)

B134549 Campbell (Not for Publication)
v.
City of Alhambra

The judgment is reversed as to the 10th cause of action for writ of mandate and affirmed as to the remaining causes of action. Appellant to receive costs of appeal.

Nott, J.

We concur: Boren, P.J.
Mallano, J. (Assigned)

B125930 People (Not for Publication)
v.
Gonzalez

The judgment is reversed.

Nott, J.

We concur: Boren, P.J.
Mallano, J. (Assigned)

DIVISION THREE

B136852 People (Not for Publication)
v.
David M.

The judgment (order declaring minor a ward of the court under Welf. & Inst. Code, 602) is affirmed.

Klein, P.J.

We concur: Croskey, J.
 Aldrich, J.

DIVISION THREE (Continued)

B138776 David A. & Paul T. (Not for Publication)

v.

Superior Court, Los Angeles County
(In re Matthew B., et al., Minors, r.p.i.)

Paul T.'s petition is granted to the extent that we order the juvenile court to continue the section 366.26 hearing for a reasonable time to enable Paul T. to file a section 388 petition. We further order the juvenile court to conduct a hearing within 30 days of the file-stamped date of this opinion, to determine: (1) why counsel failed to file a section 388 petition, and (2) why counsel failed to appear, on behalf of her client, for oral argument in the Court of Appeal. After that hearing, the juvenile court should proceed as it deems appropriate, which can include setting a date for the section 366.26 hearing.

Kitching, J.

We concur: Croskey, Acting P.J.
 Aldrich, J.

B130576 Rattan Specialties, Inc. (Not for Publication)

v.

Home Saving of America and Foothill Independent Bank

The trial court is directed to enter a final judgment in favor of both Home and Foothill. As to Home, said judgment is reversed as to the cause of action for negligence and is otherwise affirmed. As to Foothill, said judgment is affirmed. Rattan and Home shall bear their own costs; Foothill shall recover its costs from Rattan.

Klein, P.J.

We concur: Croskey, J.
 Schneider, J. (Assigned)

DIVISION THREE (Continued)

B123021 People (Not for Publication)
v.
Moron

The clerk of the superior court is ordered upon issuance of the remittitur to correct the abstract of judgment as set forth in this opinion and to forward a copy to the Department of Corrections. In all other respects, the judgment is affirmed.

Kitching, J.

I concur: Aldrich, J.
I dissent: Croskey, Acting P.J. (Opinion)

B132513 People
v.
Lopez

(Not for Publication)

The judgment is modified by reducing the Penal Code section 12022.53 enhancements imposed with regard to counts two, three and four from ten years to 3 years, 4 months, reducing Lopez's total prison term to 41 years, 8 months. The clerk of the superior court is ordered upon issuance of the remittitur to correct the abstract of judgment to reflect the modifications set forth in this opinion and to forward a copy to the Department of Corrections. In all other respects, the judgment is affirmed.

Kitching, J.

I concur: Aldrich, J.
I dissent: Croskey, Acting P.J. (Opinion)

DIVISION FIVE

Court convened at 8:00 A.M.

Present: Turner, P.J., Godoy Perez, J., Weisman, J. (Assigned) and J. Belcher, Deputy Clerk.

B135237 D.C.F.S. v. Diane R.

Argument waived, cause submitted.

B134278 Kahn et al.
v.
Pierlite Pty. Ltd.

Merits:

Argued by David Puzo for appellant and by Robert A. Kahn for respondents. Cause submitted.

B134553 Jordan C.
v.
Michael Jackson, etc., et al.

Merits:

Argued by Peter A. Goldenring and James E. Prosser for appellant and by Zia F. Modabber and Matt J. Railo for respondents. Cause submitted.

Court recessed at 8:40 A.M.

Court reconvened at 8:45 A.M.

Present: Grignon, J., Armstrong, J., Weisman, J. (Assigned) and J. Belcher, Deputy Clerk.

DIVISION FIVE (Continued)

Each of the following:

B128530 People v. Bobby Lathely

B131498 People v. Edward Wazenegger

Argument waived, cause submitted.

B130996 People

v.

Roderick Elder

Merits:

Argued by Jerald Newton for appellant and by Deborah J. Chuang, deputy attorney general, for respondent. Cause submitted.

Court recessed at 9:05 A.M.

Court reconvened at 9:10 A.M.

Present: Turner, P.J., Grignon, J., Armstrong, J. and J. Belcher, Deputy Clerk.

Each of the following:

B135042 People v. Ricardo Estrada

B136053 People v. Mara K.

B135929 People v. Aaron J.

B131575 People v. Christian Rodriguez et al.

B136710 D.C.F.S. v. Marisol C., et al.

B134135 People v. David Valencia

B139642 People v. Shirley Jones

B131090 Northridge Medical v. Willis

Argument waived, cause submitted.

DIVISION FIVE (Continued)

B129184 Robert Jeffrey et al.
 v.
 David Callister et al.

Merits:

Argued by William H. Newkirk for appellants and by Jeffrey A. Miller for respondents. Cause submitted.

B136086 People ex rel. Dennis Barlow
 v.
 Millerwood Animal Rescue Sanctuary et al.

Merits:

Argued by Michael S. Duberchin for appellants and by Richard J. Morillo, deputy city attorney, for respondents. Cause submitted.

B127343 Sander Richman
 v.
 Department of Water and Power et al.

Merits:

Argued by Bernard Lindner for appellant and by Renee J. Laurents, deputy city attorney, for respondents. Submission deferred to 4:30 p.m.

B133084 Dierck Pratts
 v.
 Office of Administrative Hearings

Merits:

Appellant did not appear for argument. Earl R. Blowman, deputy attorney general, for respondents, waived argument. Cause submitted.

Court recessed at 10:35 A.M.

DIVISION FIVE (Continued)

Court reconvened at 11:00 A.M.

Present: Turner, P.J., Armstrong, J., Godoy Perez, J. and J. Belcher, Deputy Clerk.

Each of the following:

B135816 People v. Alfredo Zavala
B131007 People v. Liderato Beltran
B136226 People v. Edward Gaines
B135416 People v. Ralph McGee
B132919 People v. Bobby McGrew
B132969 People v. Tony Harris
B136580 D.C.F.S. v. Marlana F., et al.

Argument waived, cause submitted.

B135066 People
 v.
 Jamal D.

Merits:

Argued by Margaret E. Dunk for appellant and by Rama R. Maline, deputy attorney general, for respondent. Cause submitted.

B136590 Los Angeles County, D.C.F.S.
 v.
 Sandra O.

Merits:

No appearance by appellant. Arezoo Pichvai, deputy county counsel, waived argument for respondent. Cause submitted.

Court recessed at 11:15 A.M.

DIVISION FIVE (Continued)

Court reconvened at 1:00 P.M.

Present: Turner, P.J., Armstrong, J., Godoy Perez, J. and J. Belcher, Deputy Clerk.

B124407 Albertini v Goldstein

Argument waived, cause submitted.

B135804 Nicholas Jennings et al.
v.
Joan Luchs

Merits:

Argued by Robert E. Canny for appellant. No appearance for respondent.
Cause submitted.

B126656 Phyllis Lane
v.
The Summit et al.

Merits:

Argued by Toni Rae Bruno for appellants and by Roland Wrinkle for
respondent. Cause submitted.

B132129 Jamileh Mahjobi
v.
Sid Miolayem

Merits:

Argued by Jamileh Mahjobi for appellant and by Maxine J. Lebowitz for
respondent. Cause submitted.

Court recessed at 1:50 P.M.

DIVISION FIVE (Continued)

B140240 Audrianne Norwood
v.
Load Lock-N-Roll, Inc., et al.

Filed order dismissing appeal. Appeal (notice of appeal filed March 23, 2000) dismissed.

DIVISION SIX

B129386 People (Not for Publication)
v.
Flores

The judgment is reversed concerning the kidnapping conviction in count 1, but otherwise affirmed.

Gilbert, P.J.

We concur: Coffee, J.
Perren, J.

B129715 People (Not for Publication)
v.
Dotson et al.

The judgments are affirmed.

Perren, J.

We concur: Gilbert, P.J.
Yegan, J.

DIVISION SIX (Continued)

B131990 Paine (Not for Publication)
v.
United Services Automobile Association

USAA properly denied the claim. It did not breach an implied covenant. Because the summary judgment motion was properly granted based upon the contractor negligence exclusion, it is unnecessary to resolve the other contentions briefed by the parties. (*Lewis v. Superior Court* (1999) 19 Cal.4th 1232, 1262-1264.) The granting of summary judgment in favor of USAA is affirmed. Respondent to recover costs on appeal.

Gilbert, P.J.

We concur: Yegan, J.
Coffee, J.

DIVISION SEVEN

B133320 People (Not for Publication)
v.
Simonian

The judgment is affirmed. The superior court shall cause its clerk to prepare and send an amended abstract of judgment to the California Department of Corrections stating appellant was convicted of false imprisonment in violation of Penal Code section 236, in lieu of kidnapping.

Woods, J.

We concur: Lillie, P.J.
 Neal, J.

DIVISION SEVEN (Continued)

B135059 People (Not for Publication)
v.
Dennis L.
In re Dennis L., a Person Coming Under the Juvenile Court Law

The judgment is affirmed.

Woods, J.

We concur: Lillie, P.J.
 Neal, J.

B132695 Lawseth (Not for Publication)
v.
Huber et al.

The judgment is affirmed. Respondents shall recover their costs on appeal.

Neal, J.

We concur: Lillie, P.J.
Woods, J.

B137064 Chiasson et al. (Not for Publication)
v.
Todd Shipyards Corporation et al.

The judgment is reversed. Appellants shall recover their costs on appeal.

Neal, J.

We concur: Lillie, P.J.
Johnson, J.

DIVISION SEVEN (Continued)

B131345 Monteilh (Not for Publication)
 v.
 Bank of America et al.

The judgments in favor of Bank of America and Wells Fargo Bank are reversed, and the cause remanded for further proceedings. Appellant shall recover his costs on appeal.

Neal, J.

We concur: Johnson, Acting P.J.
 Woods, J.